

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

J. D. JONES BARTON,

Petitioner,

v.

PATRICK R. GLEBE,

Respondent.

No. C10-5511 RJB/KLS

ORDER REGARDING MOTION FOR  
CLARIFICATION

Before the court is Petitioner's motion for report and clarification (Dkt. 14), regarding the court's substitution of Patrick R. Glebe, the Superintendent of the Stafford Creek Corrections Center, as the Respondent in this action. *See* Dkt. 9. Mr. Barton is advised that 28 U.S.C. § 2243 requires that writs are to be directed "to the person having custody of the person detained." The proper respondent in a federal habeas corpus petition is the petitioner's "immediate custodian." *Demjanjuk v. Meese*, 784 F.2d 1114, 1115 (D.C.Cir. 1986). A custodian "is the person having a day-to-day control over the prisoner. That person is the only one who can produce 'the body' of the petitioner." *Guerra v. Meese*, 786 F.2d 414, 416 (D.C.Cir. 1986).

Mr. Barton's custodian for purposes of his habeas corpus petition challenging the execution of his Washington state sentence, is the warden/superintendent of the prison where he

1 is currently confined. See, e.g., *Brittingham v. United States*, 982 F.2d 378 (9th Cir. 1992);  
2 *Dunne v. Henman*, 875 F.2d 244, 249 (9th Cir. 1989). According to his petition, Mr. Barton is  
3 confined at the Stafford Creek Corrections Center (SCCC) in Aberdeen, Washington. The  
4 warden of SCCC is Patrick R. Glebe.

5 Accordingly, Petitioner's motion (Dkt. 14) is **DENIED**. The Clerk shall send copies of  
6 this Order to Petitioner.  
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8 DATED this 30th day of August, 2010.

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11 Karen L. Strombom  
12 United States Magistrate Judge  
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